

FILED

2017 APR 25 AM 9:43
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY 

1 Jose Cruz Vasquez
2 6050 Lily Rock Dr
3 Fontana, CA 92336

4 Defendant, In Pro Per

5
6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**
8

9 The Bank of New York Mellon FKA The Bank of) **CASE NO.:**

10 New York, as Trustee,

) **ED CV 17-00794-^{AB}368(kkx)**

11 Its assignees and/or successors,

)

) **NOTICE OF REMOVAL**

) **PURSUANT TO 28 U.S.C. §§ 1441 and 1332**

12
13 Plaintiff(s),

)

)

) **[FEDERAL QUESTION]**

14
15 vs.

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)

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)

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16
17 Byoung Kim,

)

)

18
19 And DOES 1-10, inclusive,

)

)

)

)

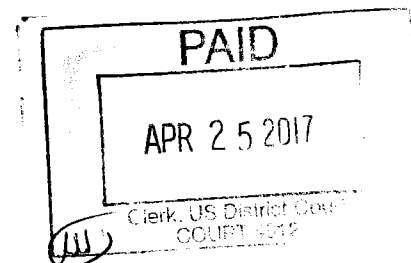
20
21 Defendant(s).

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26 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE CENTRAL
27 DISTRICT OF CALIFORNIA AND THE HONORABLE UNITED STATES DISTRICT JUDGE,
28 AS ASSIGNED:

1 PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1441 and §§ 1446, Defendant Joo Young
2 Kim (hereinafter “Defendant”) hereby provides this Notice of Removal based on a Federal
3 Question.

4
5 **I. THE REMOVED CASE**

- 6 1. The removed case is a civil action filed on January 4, 2017 with the Superior Court of
7 California, County of San Bernardino, Fontana Division Judicial District, located at 17780
8 Arrow Highway, Fontana, CA 92335, assigned case no.: UDFS1700030.
9 2. As required by 28 U.S.C. § 1446(a) and Local Rule 4.02, copies of all process, pleading,
10 orders, and other papers or exhibits filed in the State Court are attached as Exhibit A.

11 **II. THE REMOVAL IS TIMELY**

- 12 3. Plaintiff commenced this action on January 4, 2017. Hence this Notice of Removal is timely
13 filed within 30 days of receipt of the initial pleading and within one year of the
14 commencement of the action.

15 **III. THE VENUE REQUIREMENT IS MET**

- 16 4. Venue of this removal is proper under 28 U.S.C. §§ 1441(a) in the Central District of
17 California, because the Superior Court of California, County of San Bernardino, Fontana
18 Division Judicial District, located at 17780 Arrow Highway, Fontana, CA 92335, is within
19 the jurisdiction of the Central District Court of California, Eastern Division.

20 **IV. GROUNDS FOR REMOVAL**

- 21 5. Plaintiff is a “Debt Collector” as defined by FDCPA 15 U.S.C. § 1692a.
22 6. Defendant alleges Plaintiff violated Defendant’s rights as defined by 15 U.S.C. § 1601 *et*
23 *seq.* of the Truth in Lending Act (“TILA”).
24 7. FDCPA 28 U.S.C. § 1331 states that district courts “have original jurisdiction of all civil
25 actions arising under the Constitution, laws, or treaties of the United States.”
26 8. Thus, the State Court action may be removed to this Court by Plaintiff in accordance with
27 the provisions of 28 U.S.C. § 1441(a) because this action is pending within the Superior
28

1 Court of California, County of San Bernardino, Fontana Division Judicial District, located at
2 17780 Arrow Highway, Fontana, CA 92335.

3 **V. FILING OF REMOVAL PAPERS**

4 9. Pursuant to 28 U.S.C. § 1446(d), written notice of removal of this action will be promptly
5 served to Plaintiff's and a Notice of Filing of the Notice of Removal was filed with the Clerk
6 of the Superior Court of California, County of San Bernardino, Fontana Division Judicial
7 District, located at 17780 Arrow Highway, Fontana, CA 92335.

8
9 WHEREFORE, Defendant hereby removes the above captioned action from the Superior Court of
10 California, County of San Bernardino, Fontana Division Judicial District, located at 17780 Arrow
11 Highway, Fontana, CA 92335.

12
13 Respectfully Submitted,

14
15 DATED: April 13, 2017

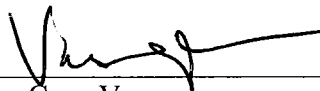
16
17 
18 _____
19 Jose Cruz Vasquez
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EXHIBIT 1

Filed Pleadings in
Chronological Order

SUM-130

**SUMMONS
(CITACION JUDICIAL)
UNLAWFUL DETAINER-EVICTION**

(RETENCIÓN ILÍCITA DE UN INMUEBLE- DESALOJO)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Kim Byoung and DOES 1-10, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

The Bank of New York Mellon FKA The Bank of New York, as Trustee, its assignees and/or successors

FOR COURT USE ONLY
SOLO PARA USO DE LA CORTE
FILED - Fontana Division
SAN BERNARDINO COUNTY
SUPERIOR COURT

JAN 04 2017

BY *Laurie Overholt*
LAURIE OVERHOLT, DEPUTY

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case, there may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, pueda perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

1. The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, SAN BERNARDINO COUNTY,
FONTANA DIVISION JUDICIAL DISTRICT

17780 Arrow Highway, Fontana, CA 92335

2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Matthew E. Podmick, Esq. SBN 219364 Rebecca L. Lang, Esq. SBN 249234

CA-16-112658

McCarthy & Holthus, LLP 1770 Fourth Avenue, San Diego, CA 92101 (619) 243-3960 Fax (619) 785-3253

3. (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code §§ 6400-6415) ☒ did not ☐ did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page):

DATE:

(Fecha)

JAN 04 2017

Clerk, by

(Secretario)

Laurie Overholt

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

4. NOTICE TO THE PERSON SERVED: You are served

- a. ☒ as an individual defendant.
b. ☐ as the person sued under the fictitious name (specify):
c. ☐ as an occupant
d. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ CCP 415.46 (occupant)

☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)
☐ other (specify):

5. ☐ by personal delivery on (date):

SUMMONS—UNLAWFUL DETAINER—EVICTION

Code of Civil Procedure, §§ 412.20, 415.430, 11197

Form Adopted by Mandatory Use
Judicial Council of California
SUM-130 (Rev. July 1, 2008)

COPY

PLAINTIFF: The Bank of New York Mellon FKA The Bank of New York, as Trustee	CASE NUMBER: SUM-130
DEFENDANT: Kim Byoung and DOES 1-10, inclusive	

6. Unlawful detainer assistant (complete if plaintiff has received any help or advice for pay from an unlawful detainer assistant):

- a. Assistant's name:
- b. Telephone no.: here is a test function
- c. Street address, city, and ZIP

- d. County of registration
- e. Registration.no.:
- f. Registration expires on (date):

NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT. CP10.5

1. If you live here and you do not complete and submit this form, you may be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. You must file this form within 10 days of the date of service listed in the box on the right hand side of this form.
 - Exception: If you are a tenant being evicted after your landlord lost the property to foreclosure, the 10-day deadline does not apply to you and you may file this form at any time before judgment is entered.
3. If you file this form, your claim will be determined in the eviction action against the persons named in the complaint.
4. If you do not file this form, you may be evicted without further hearing.
5. If you are a tenant being evicted due to foreclosure, you have additional rights and should seek legal advice immediately.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address): TELEPHONE NO.:		FOR COURT USE ONLY
ATTORNEY FOR (Name):		
NAME OF COURT: FONTANA DIVISION Court of California		
STREET ADDRESS: 17780 Arrow Highway MAILING ADDRESS: CITY AND ZIP CODE: Fontana, CA 92335 BRANCH NAME:		
Plaintiff: Defendant:		CASE NUMBER: UDF51700030 (To be completed by the process server) DATE OF SERVICE: (Date that form is served or delivered, posted, and mailed by the officer or process server)
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION		
Complete this form only if ALL of these statements are true: 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the subject premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is in the accompanying Summons and Complaint.) 3. You still occupy the subject premises.		

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit no., city and ZIP code):
3. The address of "the premises" subject to this claim is (address):
4. On (insert date): 1/4/2017, the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is in the accompanying Summons and Complaint.)
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing fee of \$ _____ or file with the court an "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file the form for waiver of court fees, I will not be entitled to make a claim of right to possession.

(Continued on reverse)

Plaintiff:	CASE NUMBER: CP10.5
Defendant:	

11. If my landlord lost this property to foreclosure, I understand that I can file this form at any time before judgment is entered, and that I have additional rights and should seek legal advice.
12. I understand that I will have *five days* (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

NOTICE: If you fail to file this claim, you may be evicted without further hearing.

13. Rental agreement. I have (check all that apply to you):

- a. ☐ an oral or written rental agreement with the landlord.
- b. ☐ an oral or written rental agreement with a person other than the landlord.
- c. ☐ an oral or written rental agreement with the former owner who lost the property to foreclosure.
- d. ☐ other (explain):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF CLAIMANT)

NOTICE: If you file this claim to possession, the unlawful detainer action against you will be determined at trial. At trial, you may be found liable for rent, costs; and, in some cases, treble damages.

— NOTICE TO OCCUPANTS —

YOU MUST ACT AT ONCE if all the following are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed.
3. You still occupy the premises.

You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the form) at the court where the unlawful detainer (eviction) complaint was filed. If you are a tenant and your landlord lost the property you occupy through foreclosure, this 10-day deadline does not apply to you. You may file this form at any time before judgment is entered. You should seek legal advice immediately.

If you do not complete and submit this form (and pay a filing fee or file a fee waiver form if you cannot pay the fee), YOU WILL BE EVICTED.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. If you do not file this claim, you may be evicted without a hearing.

CM-010

ATTORNEY OF PARTY WITHOUT ATTORNEY (Name, state bar number, and address): McCarthy & Holthus LLP Matthew E. Podmenik, Esq. SBN 219364 Rebecca L. Lang, Esq. SBN 249234 1770 Fourth Avenue San Diego, CA 92101 CA-16-112658 TELEPHONE NO.: (619) 243-3960 FAX NO.: (619) 785-3253		FOR COURT USE ONLY FILED - Fontana Division SAN BERNARDINO COUNTY SUPERIOR COURT JAN 04 2017 BY <u><i>Laurie Overholt</i></u> LAURIE OVERHOLT, DEPUTY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO, FONTANA DIVISION JUDICIAL DISTRICT		CASE NUMBER: <u>JDF 17 00030</u> JUDGE: DEPT.:	
CASE NAME: The Bank of New York Mellon FKA The Bank of New York, as Trustee v. Kim Byoung		CIVIL CASE COVERSHEET <input type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input checked="" type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: <u>JDF 17 00030</u> JUDGE: DEPT.:	

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case: Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured Motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)			Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input checked="" type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)			Provisionally Complex Civil Litigation (Cal Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities Litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)		
--	--	--	---	--	--	--	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|---|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states or counties, or in a federal court. |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial post-judgment judicial supervision |
3. Type of remedies sought (check all that apply): a. ☐ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of courses of action (specify): 1 (One)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 1/3/2017

☐ Matthew E. Podmenik
☒ Rebecca L. Lang, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under the rule 3.400 et seq. Of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to this action or proceeding.
- Unless this is a collections case under 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death

Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PUPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)

Asbestos Property Damage

Asbestos Personal Injury/Wrongful Death

Product Liability (not asbestos or toxic/environmental) (24)

Medical Malpractice (45)

Medical Malpractice—

Physicians & Surgeons

Other Professional Health Care Malpractice

Other PUPD/WD (23)

Premises Liability (e.g., slip and fall)

Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)

Intentional Infliction of Emotional Distress

Negligent Infliction of Emotional Distress

Other PUPD/WD

Non-PUPD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)

Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)

Defamation (e.g., slander, libel) (13)

Fraud (16)

Intellectual Property (19)

Professional Negligence (25)

Legal Malpractice

Other Professional Malpractice (not medical or legal)

Other Non-PUPD/WD Tort (35)

Employment

Wrongful Termination (36)

Other Employment (15)

Contract

Breach of Contract/Warranty (06)

Breach of Rental/Lease

Contract (not unlawful detainer or wrongful eviction)

Contract/Warranty Breach—Seller

Plaintiff (not fraud or negligence)

Negligent Breach of Contract/Warranty

Other Breach of Contract/Warranty

Collections (e.g., money owed, open book accounts) (09)

Collection Case—Seller Plaintiff

Other Promissory Note/Collections Case

Insurance Coverage (not provisionally complex) (18)

Auto Subrogation

Other Coverage

Other Contract (37)

Contractual Fraud

Other Contract Dispute

Real Property

Eminent Domain/Inverse

Condemnation (14)

Wrongful Eviction (33)

Other Real Property (e.g., quiet title) (26)

Writ of Possession of Real Property

Mortgage Foreclosure

Quiet Title

Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)

Residential (32)

Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)

Petition Re: Arbitration Award (11)

Writ of Mandate (02)

Writ—Administrative Mandamus

Writ—Mandamus on Limited Court Case Matter

Writ—Other Limited Court Case Review

Other Judicial Review (39)

Review of Health Officer Order

Notice of Appeal—Labor

Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)

Construction Defect (10)

Claims Involving Mass Tort (40)

Securities Litigation (28)

Environmental/Toxic Tort (30)

Insurance Coverage Claims

(arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)

Abstract of Judgment (Out of County)

Confession of Judgment (non-domestic relations)

Sister State Judgment

Administrative Agency Award (not unpaid taxes)

Petition/Certification of Entry of Judgment on Unpaid Taxes

Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)

Other Complaint (not specified above) (42)

Declaratory Relief Only

Injunctive Relief Only (non-harassment)

Mechanics Lien

Other Commercial Complaint Case (non-tort/non-complex)

Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)

Other Petition (not specified above) (43)

Civil Harassment

Workplace Violence

Elder/Dependent Adult Abuse

Election Contest

Petition for Name Change

Petition for Relief From Late Claim

Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

The Bank of New York Mellon FKA The Bank of New York, as Trustee

Case No. JD FS1700030

CERTIFICATE OF ASSIGNMENT

vs.

Kim Byoung

A civil action or proceeding presented for filing must be accompanied by this certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the FONTANA DIVISION District of the Superior Court under Rule 404 of this court for the checked reason:

☒ General

☐ Collection

Nature of Action

- ☐ 1 Adoption
- ☐ 2 Conservator
- ☐ 3 Contract
- ☐ 4 Equity
- ☐ 5 Eminent Domain
- ☐ 6 Family Law
- ☐ 7 Guardianship
- ☐ 8 Harassment
- ☐ 9 Mandate
- ☐ 10 Name Change
- ☐ 11 Personal Injury
- ☐ 12 Personal Property
- ☐ 13 Probate
- ☐ 14 Prohibition
- ☐ 15 Review
- ☐ 16 Title to Real Property
- ☐ 17 Transferred Action
- ☒ 18 Unlawful Detainer
- ☐ 19 Domestic Violence
- ☐ 20 Other _____
- ☐ 21 THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT.

Ground

- Petitioner resides within the district.
- Petitioner or conservatee resides within the district.
- Performance in the district is expressly provided for.
- The cause of action arose within the district.
- The property is located within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- Petitioner or ward resides within the district or has property within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- The defendant functions wholly within the district.
- The petitioner resides within the district.
- The injury occurred within the district.
- The property is located within the district.
- Decedent resided or resides within the district or had property within the district.
- The defendant functions wholly within the district.
- The defendant functions wholly within the district.
- The property is located within the district.
- The lower court is located within the district.
- The property is located within the district.
- The petitioner, defendant, plaintiff or respondent resides within the district.

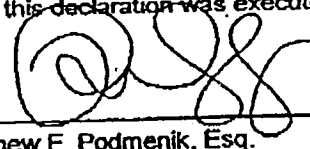
The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

Kim Byoung 6050 Lily Rock Drive
(NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR)

ADDRESS

Fontana, CA 92336
(CITY) (STATE) (ZIP)

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on January 3, 2017 at San Diego, California.


☐ Matthew E. Podmenik, Esq.
☒ Rebecca L. Lang, Esq.

FILED - Fontana Division
SAN BERNARDINO COUNTY
SUPERIOR COURT

AN 04 2017

McCarthy & Holthus, LLP
Matthew E. Podmenik, Esq. SBN 219364
Rebecca L. Lang, Esq. SBN 249234
1770 Fourth Avenue
San Diego, CA 92101
Telephone: (619) 243-3960
Fax (619) 785-3253

BY Laurie Overholt
LAURIE OVERHOLT, DEPUTY

Attorney for: Plaintiff,
The Bank of New York Mellon FKA The Bank of New York, as Trustee, its assignees and/or
successors

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO
FONTANA DIVISION JUDICIAL DISTRICT

The Bank of New York Mellon FKA The Bank
of New York, as Trustee,
its assignees and/or successors,

Plaintiff,

vs.

Kim Byoung,
and DOES 1-10, inclusive,

Defendant(s).

Case No.

UDFS1700030.

COMPLAINT FOR UNLAWFUL
DETAINER FOLLOWING
FORECLOSURE SALE
ACTION BASED ON CODE OF
CIVIL PROCEDURE SECTION
1161a

Limited Civil Case

Amount demanded does not exceed \$10,000

Plaintiff alleges as follows:

1. Plaintiff, The Bank of New York Mellon FKA The Bank of New York, as Trustee for the Certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2005-AB5 (hereinafter referred to as "The Bank of New York Mellon FKA The Bank of New York, as Trustee"), is entitled to possession and is the owner of record of a parcel of real property located at 6050 Lily Rock Drive, Fontana, CA 92336 ("Subject Property"). The Subject Property is located within the above-referenced Judicial District and County.

- 1 2. Plaintiff, The Bank of New York Mellon FKA The Bank of New York, as Trustee, is an
2 entity lawfully conducting business in California.
- 3 3. Defendant(s), Kim Byoung, at all times herein mentioned resided in the State of
4 California, County of SAN BERNARDINO.
- 5 4. Defendant(s), and each of them, are currently in possession of and occupying the
6 Subject Property.
- 7 5. Defendant(s) is the former trustor or a holdover occupant of the former trustor.
- 8 6. The true names and capacities, whether individual, corporate, associate or otherwise, of
9 the Defendant(s) named herein as Does 1-10, inclusive, and each of them, are unknown
10 to Plaintiff, who therefore sues said Defendant(s) by their fictitious names under Code
11 of Civil Procedure section 474. Plaintiff asks leave of the Court to amend its Complaint
12 to include the true names and capacities of said Defendant(s) when the same have been
13 ascertained.
- 14 7. Plaintiff is the owner of and entitled to immediate possession of the Subject Property,
15 which property is located within the jurisdictional boundaries of this court.
- 16 8. Plaintiff owns the Subject Property by virtue of a foreclosure sale duly held pursuant to
17 the power under the Deed of Trust executed by Defendant(s) or their predecessors.
- 18 9. Defendant(s) or their predecessors defaulted under the terms of the Deed of Trust which
19 secured the Property, the subject of this litigation. Thereafter, a Notice of Default and
20 Breach of Conditions of the Deed of Trust and Election to Sell the Property, to satisfy
21 the obligation thereby secured, was recorded in the Official Records in the Office of the
22 County Recorder of SAN BERNARDINO, California.
- 23 10. After failure of Defendant(s) or their predecessors to cure said default, a Trustee's Sale
24 of the Property was duly noticed, as required under California Civil Code section 2924
25 et seq., to satisfy the obligation secured by the Deed of Trust.

1 11. At the time and place noticed for Trustee's Sale, the Subject Property was sold to
2 Plaintiff in compliance with California Civil Code Section 2924 *et seq.* The Trustee's
3 Deed Upon Sale was thereafter recorded in the SAN BERNARDINO County
4 Recorder's Office, thereby duly perfecting Plaintiff's title to the Subject Property. A
5 true and correct certified copy of the Trustee's Deed is attached hereto marked Exhibit
6 "I" and made a part hereof.

7 12. On 12/27/2016, Defendant(s) was/were served with a written notice requiring
8 Defendant(s) and "All Persons in Possession" of the Subject Property to quit and deliver
9 up possession of the property. A true and correct copy of said Notice for Possession is
10 attached hereto as Exhibit "2" and is incorporated by this reference. A true and correct
11 copy of the Proof of Service of Notice for Possession is attached hereto as Exhibit "3"
12 and is incorporated by this reference.

13 13. Defendant(s) have failed and refused to deliver up possession of the Subject Property
14 after expiration of the Notice as required by California Code of Civil Procedure
15 §1161a(b)(3).

16 14. Defendant(s) continues in possession of the Subject Property without Plaintiff's
17 permission or consent.

18 15. The reasonable value of the use and occupancy of the Subject Property is equal to an
19 amount according to proof at trial, and damage to the Plaintiff caused by Defendant's
20 unlawful detention thereof has accrued at said rate since 1/3/2017 and will continue to
21 accrue until the date of entry of Judgment.

22 ///

23 ///

24 ///

25 ///

///

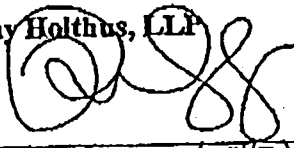
1 WHEREFORE, Plaintiff prays judgment against Defendant(s) and each of them for:

- 2 1. Restitution of the Subject Property;
- 3 2. Damages in an amount to be determined, according to proof, at trial, at a daily rate
- 4 from 1/3/2017, until the date that judgment for Plaintiff is entered by the Court; and
- 5 3. Costs herein and further relief as is proper.

6 Dated: January 3, 2017

McCarthy Holthus, LLP

By:


☐ Matthew E. Podimanski, Esq.
☒ Rebecca L. Lang, Esq.
Attorney For Plaintiff,
The Bank of New York
Mellon FKA The Bank of
New York, as Trustee

VERIFICATION

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I have read the foregoing COMPLAINT FOR UNLAWFUL DETAINER and know its contents.

I am one of the attorneys for The Bank of New York Mellon FKA The Bank of New York, as Trustee, a party to this action. The officer responsible of such party is absent from the county aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I have read the foregoing document and I am informed and believe that the matters therein to be true, and on that ground, allege that the matters stated therein are true.

Executed on January 3, 2017 in San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



☐ Matthew E. Podmenik, Esq. SBN 219364
☒ Rebecca L. Lang, Esq. SBN 249234

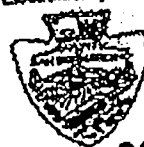
RECORDING REQUESTED BY

WHEN RECORDED MAIL TO

SHELLPOINT MORTGAGE SERVICING
75 BEATTIE PLACE, SUITE 300
GREENVILLE, SC 29601
Mail Tax Statement To:

SAME AS ABOVE

Trustee Sale No. [REDACTED]



BOL JUTTON
ASSESSOR - RECORDER - CLERK
90B Old Republic Ntrl Ins Title Co

Doc #: 2016-0522550

Titles: 1	Pages: 3
Fees	31.00
Taxes	.00
Other	.00
PAID	31.00

TRUSTEE'S DEED

The undersigned grantor declares:

1. The Grantee herein was the foreclosing beneficiary.
2. The amount of the unpaid debt together with costs was \$566,694.86.
3. The amount paid by the Grantee at the Trustee's Sale was \$372,300.00.
4. The documentary transfer tax is \$0.00.

PEAK FORECLOSURE SERVICES, INC., a California corporation, as the duly appointed Trustee under the Deed of Trust hereinafter described (herein called TRUSTEE), hereby grants and conveys, but without warranty, express or implied, to:

THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE
FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED
CERTIFICATES, SERIES 2005-AB5

Herein called GRANTEE, all of its right, title and interest in and to that certain property situated in the City of FONTANA, County of SAN BERNARDINO, State of CALIFORNIA, described as follows:

ATTACHED HERETO AS EXHIBIT 'A' AND INCORPORATED HEREIN AS THOUGH
FULLY SET FORTH.

TAX PARCEL NO: 1108-311-46-0-000

This conveyance is made pursuant to the powers conferred upon TRUSTEE by that certain Deed of Trust executed by BYOUNG MEE KIM, A MARRIED WOMAN AS HER SOLE AND SEPARATE PROPERTY, as Trustors recorded 11/23/2005, as Instrument No. 2005-0882451, of Official Records in the office of the Recorder of SAN BERNARDINO County, State of CALIFORNIA, and after fulfillment of the conditions as specified in said Deed of Trust authorizing this conveyance. Default occurred as set forth in a Notice of Default and Election to Sell which was filed for record in the office of the Recorder of said County, and such default still existed at the time of sale. All requirements of law regarding the mailing of copies of notices and posting and publication of copies of the Notice of Sale have been complied with.

Said property was sold by said Trustee at public auction on December 1, 2016, at the place named in the Notice of Sale, in the County of SAN BERNARDINO, CALIFORNIA, in which the property is situated. Grantee, being the highest bidder at such sale, became the purchaser of said property and paid therefore to said Trustee the amount bid being \$372,300.00, in lawful money of the United States, or by the satisfaction, pro tanto, of the obligations then secured by said Deed of Trust.

Page 1 of 2

EXHIBIT 1

Trustee Sale No. [REDACTED]

Date: 12/1/2016

PEAK FORECLOSURE SERVICES, INC., Trustee

By Lilian Solano
Lilian Solano, Authorized Signor

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California

COUNTY OF Los Angeles

On 12/1/16, before me, Kelli J. Espinoza notary public personally appeared Lilian Solano, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kelli J. Espinoza
NOTARY PUBLIC

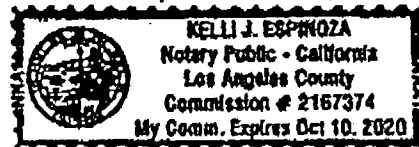


Exhibit 'A'

Lot 28, Tract No. 16427-2, in the City of Fontana, County of San Bernardino, State of California, as per plat Recorded in Book 296 of Maps, Page(s) 12 to 16, inclusive, Records of said County, together with a temporary easement appurtenant to the above described property to drain water to, over and under Lots 62, 63 and 64 of Tract No. 16427-1 (the "Basin Lots") in accordance with the City of Fontana's drainage plans for Tract No. 16427-2, which easement shall be terminable by grantor, without any further action by grantee or its successors-in-interest, upon grantor's Recordation of a Notice of Termination signed by grantor.

NOTICE FOR POSSESSION

File No. CA-16-112658

TO: Kim Byoung

and "ALL PERSONS IN POSSESSION" of the premises located at:

6050 Lily Rock Drive, Fontana, CA 92336

NOTICE IS HEREBY GIVEN that:

- 1.) Within three (3) days after service on you of this Notice, in the event you are the Trustor of the Deed of Trust described below or prior owner of the subject property, or you reside in the Property with the Trustor of the Deed of Trust or prior owner, or:
- 2.) Within ninety (90) days after service on you of this Notice, in the event you are an occupant of the above described premises and not one of the Trustors of the Deed of Trust described below:

You are required to quit and deliver up possession of the premises to the undersigned or to The Bank of New York Mellon FKA The Bank of New York, as Trustee, or its servicing agent, who is/are authorized to receive the same, or the undersigned will institute legal proceedings against you to recover possession of said premises and for rents or damages as provided by law.

You are required to quit and deliver up possession of said premises for the reason that they have been duly sold to the undersigned in accordance with Section 2924 et seq. of the Civil Code of the State of California, under the power of sale contained in a Deed of Trust executed by you or by your predecessors in interest and recorded in the Official Records of SAN BERNARDINO County, California, and the title under the sale has been duly perfected.

This notice is given pursuant to the provisions of Sections 1161a(b)(3) and 1161b of the Code of Civil Procedure of the State of California.

Please notify this office immediately if you are active military duty or have been discharged from active military duty within the last 12 months.

Dated: December 23, 2016

McCarthy & Holthus, LLP
Attorneys for The Bank of New York Mellon FKA The Bank of New York, as Trustee

1770 Fourth Avenue
San Diego, CA 92101
(619) 685-4800 x3729

EXHIBIT 2

A foreclosure sale has been completed for this property and an eviction is beginning - Your rights to continue living in this property may be affected. Please call (with an interpreter) our office at (619) 685-4800 ext 3729 to discuss options which may be available to you. You may also wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights you may have. Time is of the essence.

Se ha realizado una venta por juicio hipotecario de esta propiedad y ha comenzado el proceso de desalojo. Es posible que sus derechos de continuar viviendo en esta propiedad se vean afectados. Comuníquese (con un intérprete) con nuestra oficina al (619) 685-4800, int. 3729, para analizar opciones disponibles para usted. También podrá comunicarse con un abogado o con la oficina local de asesoramiento legal o agencia de asesoramiento inmobiliario para analizar los derechos que pueda tener. El tiempo es crucial.

Thủ tục mua bán nhà bị tịch thu đã được hoàn tất đối với tài sản này và việc thu hồi nhà đang bắt đầu - Quyền hạn tiếp tục sống trong nhà này của quý vị có thể bị ảnh hưởng. Xin gọi (với một thông dịch viên) cho văn phòng của chúng tôi ở số (619) 685-4800, số máy nhánh 3729 để thảo luận các lựa chọn có thể có đối với quý vị. Quý vị cũng có thể cần liên lạc với một luật sư hoặc một cơ quan trợ giúp về pháp luật hoặc tư vấn gia cư tại địa phương để thảo luận mọi quyền hạn của quý vị. Thời gian là điều quan trọng nhất.

이 건물에 대한 압류 처분이 완료되었으며 철거가 시작되고 있습니다. 귀하가 이 건물에 계속 거주할 수 있는 권리가 영향을 받을 수 있습니다. (619) 685-4800(내선 3729, 통역사 통화 가능)으로 전화하여 귀하가 선택할 수 있는 사항을 문의하십시오. 또한 변호사, 지역의 법률 지원 기관 또는 주택 상담 기관에 연락하여 귀하의 권리에 대해 문의할 수 있습니다. 서두르셔야 합니다.

Naisagawa na ang pagbebenta dahil sa pagpapasara sa property na ito at magsisimula na ang paglilipat - Ang iyong mga karapatang patuloy na tumira sa property na ito ay maaaring maapektuhan. Mangyaring tumawag (nang may interpreter) sa aming tanggapan sa (619) 685-4800 ext 3729 upang talakayin ang mga pagpipilian na maaari mong magamit. Maaari ka ring makipag-ugnay sa isang abogado o iyong lokal na legal aid o ahensya sa pagpapayo sa paninirahan upang talakayin ang anumang karapatang maaaring nauukol sa iyo. Ang oras ay mahalaga.

法院針對此房產的公開拍賣 (Foreclosure

Sale) 已經完成，并且收回房產 (Eviction) 行動已經開始 -

您繼續居住在此房產的權利將受到影響。請 (在譯員幫助下) 致電我們的辦公室，電話 (619) 685-4800 分機

3729，以討論可供您選擇的各項方案。您還可能需要聯係一位律師、當地法律援助機構或住房諮詢機構以便討論您可能擁有的各項權利。時間緊迫，請勿拖延。

NOTICE TO TENANTS

Notice to Any Renters Living At 6050 Lily Rock Drive, Fontana, CA 92336

The attached notice means that your home was recently sold in foreclosure and the new owner plans to evict you.

You should talk to a lawyer NOW to see what your rights are. You may receive court papers in a few days. If your name is on the papers it may hurt your credit if you do not respond and simply move out.

Also, if you do not respond within five days of receiving the papers, even if you are not named in the papers, you will likely lose any rights you may have. In some cases, you can respond without hurting your credit. You should ask a lawyer about it.

You may have the right to stay in your home for 90 days or longer, regardless of any deadlines stated on any attached papers. In some cases and in some cities with a "just cause for eviction law," you may not have to move at all. But you must take the proper legal steps in order to protect your rights.

How to Get Legal Help

If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Please notify this office immediately if you are active military duty or have been discharged from active military duty within the last 12 months.

**IF YOU ARE IN THE ARMED FORCES, PLEASE READ THIS
IMPORTANT MESSAGE ABOUT POSSIBLE RIGHTS UNDER
THE SERVICEMEMBERS CIVIL RELIEF ACT**

IMPORTANT NOTICE TO SERVICEMEMBERS AND THEIR DEPENDENTS:

PROTECTIONS UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT

Military servicemembers on "active duty" or "active service," or a dependent of such a servicemember may be entitled to certain legal protections, including eviction protection, pursuant to the Servicemembers Civil Relief Act (50 U.S.C. App. §§ 501-596), as amended, (the "SCRA") and, possibly, certain related state statutes.

Who may be entitled to Legal Protections under the SCRA:

- Active duty members of the Army, Navy, Air Force, Marine Corps, Coast Guard, and active service National Guard;
- Active service members of the commissioned corps of the National Oceanic and Atmospheric Administration;
- Active service members of the commissioned corps of the Public Health Service;
- United States citizens serving with the armed forces of a nation with which the United States is allied in the prosecution of a war or military action; and
- Their spouses.

What legal protections are servicemembers entitled to under the SCRA?

- The SCRA states that a debt incurred prior to entering military service by a servicemember or servicemember and spouse jointly shall not bear interest at a rate above 6 percent during the period of military service and for one year thereafter.
- The SCRA states that in a legal action to enforce a mortgage debt filed during or within 12 months after the servicemember's military service, a court may take certain actions to protect the consumer.
- The SCRA states that eviction of servicemembers generally must be under a court order, and a court may take certain actions to protect the consumer.
- The SCRA contains many other protections besides those applicable to home loans.

WHAT YOU NEED TO DO

How do I request relief under the SCRA?

- Please contact us immediately at the following number to inform us of you or your spouse's military status. Call us at: (619) 685-4800 ext. 3729
- To assist in determining whether this loan is eligible for Servicemember benefits, please provide us with a copy of any military orders and/or DD-214 form(s) issued to you, any co-borrower, or occupant of the property and the Social Security numbers of any non-borrower occupants of the property.
- Some of the benefits provided by the SCRA require that the servicemember provide the lender with a copy of the servicemember's military orders. A servicemember or spouse, or both, may request relief under the SCRA by providing a written request with a copy of the servicemember's military orders:

McCarthy & Holthus, LLP
Evictions Department
1770 4th Ave.
San Diego, CA 92101

How can I get more information about the SCRA?

- Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. A military legal assistance office locator for all branches of the Armed Forces is available at the following website:
<http://legalassistance.law.af.mil/content/locator.php>
- "Military OneSource" is the U.S. Department of Defense's information resource. If you are listed as entitled to legal protections under the SCRA, please go to <http://www.militaryonesource.com/scra> or call 1-800-342-9647 (toll free from the United States) to find out more information. Dialing instructions for areas outside the United States are provided on the website.
- If you are such a servicemember, or a dependent of such a servicemember, you should contact McCarthy & Holthus, LLP at (619) 685-4800 ext. 3729 to discuss your status under the SCRA.

MCCARTHY HOLTHUS-UD-SD
1770 Fourth Avenue San Diego, CA 92101



PROOF OF SERVICE

I, the undersigned declare that I served the Notice (s) below as indicated:

3/90 Notice For Possession; 5 Languages; Important Notice to Tenants; Blank Change in Ownership Occupant Questionnaire; Notice to Tenants; Service Members Civil Relief Act; Dated Letter to Occupant
The above described Notice (s) were served on the following named parties in the manner set forth below:

NAME OF OCCUPANT: Kim Byoung and All Persons in Possession

DATE OF Posting: December 27, 2016
TIME OF Posting: 1:30 PM

DATE OF MAILING: December 27, 2016

PROPERTY ADDRESS: 6050 Lily Rock Drive,
Fontana, CA 92336
(HOME)

☐ 1. PERSONAL SERVICE

By delivering a copy of the Notice(s) on the above named occupant(s)

☒ 2. CONSTRUCTIVE SERVICE

After due and diligent effort and after attempting to personally serve said notice(s), as authorized by C.C.P. Section 1162(2,3) on each of the above named parties in the manner set forth below.

By posting a copy for each of the above named parties on December 27, 2016 at 1:30 PM in a conspicuous place on the property; there being no person of suitable age or discretion to be found at the property or any known place of business of the above named parties and thereafter mailing a copy to each said party by depositing said copies in the United States mail, in a sealed envelope with postage fully prepaid, addressed to each said party at their place where the property or where their mail is delivered on December 27, 2016.

Fee for Service: \$ 110.00

 County: Los Angeles
Registration No.: 6013
Nationwide Legal, LLC
200 West Santa Ana Blvd., Suite 300
Santa Ana, CA 92701
(714) 558-2300
Ref: CA-16-112658

At the time of service, I was at least 18 years of age. I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 27, 2016.

Signature: 

Juan Reyes

UD56949

EXHIBIT 3

UD56949.NTQ.CA-16-112658

PROOF OF SERVICE

CC#26

SAN BERNARDINO COUNTY, FONTANA DIVISION DISTRICT

STATEMENT OF LOCATION

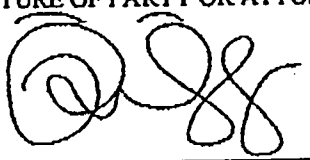
PLAINTIFF: The Bank of New York Mellon FKA The Bank of New York, as Trustee	DEFENDANT: Kim Byoung	CASE NUMBER: JDFS1700030
--	--------------------------	-----------------------------

INSTRUCTIONS

1. Check ONE of the following statements to indicate the basis for filling the case in this judicial district, and filling the address below. Except for cases arising from accidents occurring on a freeway, you must provide the exact street address, including city and ZIP code.
2. There are 24 separate, independent municipal court judicial districts in Los Angeles County. Except in San Diego County, no city can lie on more than one judicial district. (Cal. Const., art. VI, §5.) **WARNING:** Many residences and businesses have mailing addresses for one city but actually lie in another city or in unincorporated territory, which may lie in another judicial district. Do not rely on mailing addresses; always check a street guide or map.
3. After completion, attach this form to the back of your complaint.

EXACT STREET ADDRESS: 6050 Lily Rock Drive	CITY: Fontana	ZIP CODE: 92336
---	------------------	--------------------

- ☐ 1. The cause of action arose in this judicial district. The address of the cause of action is stated above.
- ☒ 2. The property that is the subject of this action is located in this judicial district. The address of the property is stated above.
- ☐ 3. The tort occurred in this judicial district. The address where the tort occurred is stated above.
- ☐ 4. The contract was entered into in this judicial district; or a defendant resided in this judicial district when the contract was entered into; or the contract or obligation was to be performed in this judicial district; or, if the defendant is a corporation, the contract was breached on this judicial district. The address where the contract was entered into, where the defendant resided when the contract was entered into, where the contract or obligation was to be performed, or where the contract was breached is stated above.
- ☐ 5. A defendant resides in this judicial district, or a defendant corporation or unincorporated association has its principal place of business in this judicial district. The address of the residence or principal place of business of the defendant is stated above.
- ☐ 6. The cause of action is on a retail installment account or contract subject to Civil Code section 1812.10, and the goods purchased pursuant to that account or contract are affixed to real property (so as to become part of the real property) that is located on this judicial district. The address of the real property is stated above.
- ☐ 7. The cause of action is on a vehicle finance sale subject to Civil Code section 2984.4, and the vehicle is permanently garaged on this judicial district. The address where the vehicle is garaged is stated above.
- ☐ 8. The defendant is a city or local agency located on this judicial district.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.		
DATE: 1/3/2017	TYPE OR PRINT NAME OF PARTY OR ATTORNEY: Rebecca L. Lang, Esq.	SIGNATURE OF PARTY OR ATTORNEY: 

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETI. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

The Bank of New York Mellon FKA The Bank of New York, as Trustee, its assignees and/or successors

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

McCarthy & Holthus, LLP
Matthew E. Podmenik, Esq. SBN 219364
1770 Fourth Ave, San Diego, CA 92101
Tel. 619-243-3960DEFENDANTS (Check box if you are representing yourself ☒)

Byoung Kim erroneously sued as Kim Byoung and DOES 1-10, inclusive

County of Residence of First Listed Defendant San Bernardino

(IN U.S. PLAINTIFF CASES ONLY)

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

Jose Cruz Vasquez
6050 Lily Rock Dr
Fontana, CA 92336

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☐ 1. Original Proceeding ☒ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multidistrict Litigation - Transfer ☐ 8. Multidistrict Litigation - Direct File

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check "Yes" only if demanded in complaint.)CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No ☐ MONEY DEMANDED IN COMPLAINT: \$

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Section 15 U.S.C. Section 1601 et seq; TILA

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 130 Miller Act	<input checked="" type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 891 Agricultural Acts	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	LABOR	
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

EDCV 17-00794

CD-71 (07/16)

CIVIL COVER SHEET

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input checked="" type="checkbox"/> Riverside or San Bernardino		Eastern

QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question C. If "yes," answer Question B.1, at right.	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co.?	YES. Your case will initially be assigned to the Southern Division. <input type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there.
	<i>check one of the boxes to the right</i> →	<input type="checkbox"/> NO. Continue to Question B.2.
	B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)	YES. Your case will initially be assigned to the Eastern Division. <input type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there.
	<i>check one of the boxes to the right</i> →	NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.

QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question D. If "yes," answer Question C.1, at right.	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.?	YES. Your case will initially be assigned to the Southern Division. <input type="checkbox"/> Enter "Southern" in response to Question E, below, and continue from there.
	<i>check one of the boxes to the right</i> →	<input type="checkbox"/> NO. Continue to Question C.2.
	C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)	YES. Your case will initially be assigned to the Eastern Division. <input type="checkbox"/> Enter "Eastern" in response to Question E, below, and continue from there.
	<i>check one of the boxes to the right</i> →	NO. Your case will initially be assigned to the Western Division. <input type="checkbox"/> Enter "Western" in response to Question E, below, and continue from there.

QUESTION D: Location of plaintiffs and defendants?	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

D.1. Is there at least one answer in Column A? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. →	D.2. Is there at least one answer in Column B? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓
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QUESTION E: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, C, or D above: →	EASTERN

QUESTION F: Northern Counties? Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

(a). IDENTICAL CASES: Has this action been previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

Civil cases are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

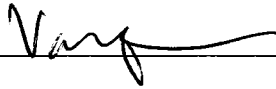
Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT):



DATE: 4-13-17

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))